Process Review

California Division Office Categorical Exclusion (CE) Assignment Monitoring Review
(23 U.S.C. 326)

Final Report
FY 2011 - 2012

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Executive Summary

The Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Section 6004 allows for the U.S. Department of Transportation to assign to the States the responsibility of determining whether a proposed project qualifies as a Categorical Exclusion (CE), thereby addressing National Environmental Policy Act requirements. California Department of Transportation (Caltrans) accepted this responsibility. The first three-year program ended on June 7, 2010; however, it was subsequently extended for an additional three years.

Caltrans' Assignment is governed by a Memorandum of Understanding that calls for the Federal Highway Administration (FHWA) to conduct a Program Review on an approximately 15-month cycle to evaluate Caltrans' implementation of the Assignment. This report is the third Process Review of the CE Assignment. The purpose of the review is to:

- Evaluate the implementation of recommendations from previous reviews;
- Identify successful practices;
- Verify that the CE determinations and documentation are appropriate, and that they comply with applicable laws, regulations, and the provisions of the MOU, based on a project-by-project basis with quantified observations;
- Report observations and recommendations to Caltrans to improve execution of NEPA Assignment; and
- Review the CE determinations and the adequacy of supporting documentation.

The review team reviewed all CEs implemented for Caltrans Districts 7 and 8. **Note that the review did not include any review of the project hardcopy files.** Both Capital Projects and Local Assistance projects were individually evaluated. Based on the information reviewed, 13% of the projects did not have adequate supporting documentation. Overall, the accuracy was somewhat variable with a potential low of 69% and a potential high of 98% for the four groups evaluated. It is the team's belief that overall success is considerably higher than the suggested 69%. It is only due to an inadequate project description and/or missing information that the team identified the lowest accuracy rating as a worst case scenario.

This is the third Program Review, and it identifies 2 findings and 3 observations along with corrective action recommendations and several related suggestions that the FHWA California Division believes will improve and facilitate Caltrans' execution of the assignment. Findings are statements pertaining to compliance with a regulation, statute, FHWA guidance, policy, or procedures, Caltrans procedures, or the Section 6004 MOU. Observations are circumstances noted where FHWA believes a process or procedure may be improved. Corrective actions are actions required to address a deficiency identified in a finding. Recommendations are suggestions on how to improve a process or procedure based on an observation.

The two findings relate to vague or missing information in project records. The first finding is that emergency relief projects were classified as an emergency repair CE action where support for this action was not evident. The second finding is that several project records lacked evidence of required coordination or consultation that comes with the State's assumption of other

environmental responsibilities. A thorough search of the hardcopy files may have provided evidence of an ER declaration and/or appropriate agency coordination, however, the information was not evident in the CE forms/checklists that were provided for the team's review.

The three observations all touched on the sometimes uneven quality of project descriptions in project records. The first observation indicated that in some cases it was evident that project descriptions did not fully explain proposed work. The second observation is that other CE project files did not utilize the most up-to-date CE forms that have been developed and available in Caltrans' Standard Environmental Reference. This led to project files being variable in form, format and information contained. The third observation is that some CE project records did not clearly indicate whether new right-of-way would be needed for the project. In this and other cases, a review of the submitted files could not determine whether all responsibilities assumed by Caltrans were satisfied.

In addition, the team provided five recommendations. The recommendations related primarily to the amount and relevance of information.

FHWA also identified four successful practices. These included maintaining applicable manuals up-to-date, providing training, continuing the effort to integrate data bases and using interdisciplinary teams in project evaluations.

The Review Team concluded that Caltrans is generally making appropriate determinations and, results of the survey indicated that in most instances there were some time savings. Overall, Caltrans is complying with applicable Federal and State laws, including NEPA, is complying with record-keeping requirements and has adequate staff to maintain the Assignment. At the same time, there is some room for improvement, particularly related to project descriptions and more information on consultation efforts. It is believed that implementation of these latest recommendations will further fine-tune Caltrans' implementation of the Section 6004 Assignment.

Background

Categorical exclusions (CE) are a class of National Environmental Policy Act (NEPA) actions which, based on past experience with similar actions in similar contexts, do not involve individual or cumulatively significant impacts to the natural or human environment. These are actions which do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic, or other resource; do not involve significant air, noise, or water quality impacts; do not have impacts on travel patterns; and do not otherwise, either individually or cumulatively, have any significant environmental impacts (23 CFR 771.117(a)).

The Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Section 6004 allows the U.S. Department of Transportation (U.S. DOT) to assign to the States the responsibility for determining whether or not a project is categorically excluded from the requirement to prepare an Environmental Assessment or an Environmental

Impact Statement. The law, codified in 23 U.S.C. 326, also allows the States to assume some, all, or none of the other Federal responsibilities, such as environmental review, consultation, or other environmental decisions. However, the U.S. Government's trust responsibility to Native American Tribes for conducting government-to-government consultations with Native American tribal governments is specifically retained by the FHWA, and not assigned to the States. In addition, any decisions outside of the environmental phase of project development (e.g., right of way decisions for Federal land transfers, engineering decisions for modified access to the Interstate) are also not assigned to the California Department of Transportation (Caltrans), and these decisions are subject to the provisions of the 2010 Stewardship & Oversight Agreement between Caltrans and the FHWA California Division.

The Assignment of environmental decision-making for 6004 CEs to Caltrans is governed by a Memorandum of Understanding (MOU) signed by Caltrans and FHWA California Division on June 7, 2010. The term of the MOU is for three years after which time it can be renewed. The State's performance of the MOU provisions is subject to monitoring by the FHWA, and the State's documented performance will be considered when the MOU is renewed. The U.S. DOT can terminate the entire MOU, terminate any individual responsibility assigned, or exclude a project from the MOU if there is evidence that the State is not meeting the responsibilities assumed in the MOU.

Caltrans assumed the FHWA's authority and responsibilities for determining if a transportation project qualifies for a 6004 CE on June 7, 2007 and renewed the assumption of CE responsibilities for another three-year period by executing a renewed MOU on June 7, 2010. For these categorically excluded projects, Caltrans also assumed the FHWA's responsibilities for coordination and consultation under other Federal environmental protection laws, such as the Endangered Species Act, Clean Water Act, Clean Air Act, the National Historic Preservation Act, Coastal Zone Management Act, and Section 4(f) of the U.S. DOT Act of 1966. In the implementation of CE Assignment in California, Caltrans' environmental review, interagency coordination and consultation, public participation, and other related responsibilities for the 6004 CEs assigned under the MOU are subject to the same existing and future procedural and substantive requirements as if the responsibilities were carried out by the FHWA.

As noted at 23 U.S.C. 326, there is also a requirement that the FHWA conducts monitoring reviews of the State to assure compliance with the stipulations of the MOU, as well as with the FHWA's regulations and policies in environmental analysis, including Caltrans' compliance with the requirements of the Federal environmental protection laws administered by Federal resource and regulatory agencies. The monitoring reviews are also intended to verify that the States have the financial and staff resources to carry out the requirements of the MOU.

This is the third CE Assignment monitoring review in California. The review was conducted primarily by a desk audit, which involved a desk review of all 6004 CE determinations completed by Caltrans District 7 (Los Angeles and Ventura Counties) and District 8 (San Bernardino and Riverside Counties). An initial survey was provided to Caltrans (Attachment 1). The audits were conducted to examine the quality, consistency, and accuracy of CE determinations in both districts. The audit enabled the review team to determine and document if any issues were isolated incidents, procedural implementation errors, or systemic in nature. The

data and information collected in the desk review was analyzed by the review team to identify trends for both successful practices and for the areas that need the FHWA's technical advice and assistance. The review team coordinated the findings with Caltrans Headquarters to ensure that they understood FHWA's observations and potential recommendations for process improvements at the statewide level.

This report includes the information identified below.

-The FHWA California Division's independent verification of Caltrans' implementation of the six recommendations made in the second CE Assignment Program Monitoring Review, conducted in FY 2009-2010.

-Review of Caltrans' responses to FHWA's survey initiating this Process Review.

-The FHWA California Division's identification of successful practices in Caltrans' implementation of the Program Assignment.

This report includes two findings, three observations and other recommendations for future action that we believe will improve the quality and supportability of CE determinations and facilitate future reviews.

Purpose and Objective

The purpose of this review was to evaluate the level of compliance with the provisions of the MOU, including compliance with NEPA and other Federal environmental laws.

In particular, it was the purpose of the Review Team to focus on similar risk areas identified in the FY 2010 6004 CE Review done in Districts 1 and 7. The Review Team examined both procedural and substantive compliance in Caltrans Districts 7 and 8 for this review. Typically, these reviews focus on one district that is highly urbanized and one that is more rural. District 7 was selected because of the urbanization in the Los Angeles and Ventura Counties. In addition, it was believed that a follow-up to the previous review was warranted based on identified recommendations that FHWA believed needed implementation to improve performance. District 8 was selected due to its more rural nature and the review team's efforts to rotate among districts. Generally, only two to three districts are selected per review.

The primary objective of this monitoring review was to evaluate and document Caltrans' performance and successes achieved under the CE Assignment Program in California. The following six nationally-established performance measures and compliance indicators were used as the basis to formulate the objectives of the review and to gauge the level of achievement.

I. CE determinations are appropriately and timely documented.
II. CE decisions are factually and legally supportable at the time the decision is made.
III. CE decision-making procedures comply with NEPA, 23 CFR 771.117, and the MOU.
IV. The State has met staffing and quality control requirements of MOU.

V. The State has complied with other Federal and State legal requirements.
VI. The State has complied with recordkeeping requirements.

Based on these performance measures and indicators, and as originally stated in the review work plan, this year's review had four specific objectives.

I. Verify that the CE determinations and documentation are appropriate, and that they comply with applicable laws, regulations, and the provisions of the MOU.
II. Review Caltrans' processes for the identification and documentation of CE determinations.
III. Review the adequacy of the CE determinations and supporting documentation.
IV. Report observations and recommendations to Caltrans for improvements.

The review team also followed up on the observations and recommendations made in the FY 2009-2010 CE Assignment Process Monitoring Review.

Recommendations and Actions from Previous Process Review

The FY 2009-2010 report included six specific observations and recommendations in the following program areas:

1) Definitions of FHWA Nexus and Federal Nexus
Recommendation 1:
The FHWA California Division recommends that Caltrans Headquarters issue statewide guidance on "FHWA-nexus" and "Federal nexus," and make a specific reference to 23 CFR 771.107(c) in the Standard Environmental Reference (SER).

2012 status: Although a number of modifications have been made to the SER, it does not appear that this was specifically addressed. However, this did not seem to be an issue in the FY 2011-12 Process Review. Caltrans should address the status of this recommendation in their corrective action plan.

2) Projects on Federal lands
Recommendation 2a:
The FHWA California Division recommends that the SER include a section dedicated to how Caltrans meets Federal land management agencies' NEPA implementing regulations for issuing the CEs associated with Federal-aid projects on Federal lands.

2012 status: This also does not appear to have been specifically addressed in SER modifications; however, this did not seem to be an issue in the FY 2011-12 review. Caltrans should address the status of this recommendation in their corrective action plan.

Recommendation 2b:
If Caltrans plans to include Federal Lands projects in the scope of the CE Assignment Program in California, for projects that Caltrans will design and construct in accordance with

provisions of the MOU, FHWA recommends that Caltrans initiate dialogue with the FHWA's Central Federal Lands Highway Division.

2012 status: It is unknown if such dialogue was initiated, however, no projects on Federal lands were identified in the FY 2011 CEs.

3) Documentation of after-the-fact compliance on the CEs issued for Emergency Opening (EO) component of Emergency Relief (ER) program:
Recommendation 3:
The Team recommends that Caltrans' SER include a dedicated section for the NEPA process associated with ER projects (with a specific focus on the EO component), and that the various agency definitions of what constitutes an emergency be discussed in this section. There also should be specific reference and guidance to 23 USC 125 included in the SER.

2012 status: The Team observed a lack of documentation for the California Governor or President's emergency declarations in this review. Although not identified in the survey, Caltrans has implemented this recommendation. The SER contains a section titled "Emergency Projects - Environmental Process and Requirements." This section can be found at: http://www.dot.ca.gov/ser/downloads/general/Emergency_Projects.pdf

4) New additions of project categories in the "C" and "D" lists
Recommendation 4:
The FHWA California Division recommends that Caltrans Headquarters outreach to the 12 districts to make sure that the changes are effectively communicated to Caltrans environmental staff at the districts, and that all pertinent projects development manuals (e.g., Caltrans Right of Way Manual and California Manual on Uniform Traffic Control Devices) be updated to reflect the changes.

2012 status: This appears to have been done and no issues were identified in this latest review.

5) Application of the new category in D-12
Recommendation 5:
The FHWA California Division recommends closer coordination between Caltrans environmental and ROW sections to assure that Caltrans' use of the new category in D-12 be limited to its intended purpose in documenting the acquisition of land for hardship or protective purposes, and for advance land acquisition loans under 49 U.S.C. 5309(b) in public transportation projects

2012 status: This appears to have been done since no issues were identified with use of CE D-12 in the FY 2011 review.

6) Other follow-up items for Caltrans' next Self-assessment.
Recommendation 6:

The FHWA Team recommends that Caltrans, in its next Self-assessment, follow-up on the other recommendations for improved quality assurance, quality control, and process improvements identified during the interviews and the desk reviews.

2012 status: This appears to have been addressed through additional training, internal Caltrans collaboration and modifications to applicable project manuals.

These above recommendations were supplemented with an accompanying management transmittal letter that included five additional opportunities for process improvements.

1. The first was project descriptions. The Team found this to still be a problem and has made it a recommendation in this FY 2011-12 report.
2. The second addressed consistent use of a single CE template. Although there is indication that the form was updated in June 2010, the Team still found too much variability in the FY 2011-12 review relative to format and style to adequately capture the required information.
3. The third addressed the concept of what an environmental "trigger" consisted of. This did not appear to be an issue in the FY 2011-12 review.
4. The fourth noted that there was a lack of documentation on interaction with the resource/regulatory agencies. The Team still found this to be a problem and is making it a Finding in this report.
5. The last concerned the use of "never" or "zero" probability of encountering an unforeseen resource. This terminology was still occasionally noted in some 2011 CEs and is addressed in the Results section of this report.

Scope and Methodology

The scope of this monitoring review covered the 6004 CEs issued in Caltrans Districts 7 and 8 between July 1, 2010 and August 3, 2011. These CEs had been reported to the FHWA California Division in the fifth, sixth, seventh, and the eighth quarterly reports.

The following steps were taken in data collection and analysis:

a. Reviewed all CE types, that are on the "C" list, "D" list, and the Appendix A list;
b. Provided Caltrans staff a questionnaire to supplement the results of the FY 2011 review; and
c. Made independent determinations on applicability, accuracy, and completeness.

For the CE determinations issued in Districts 7 and 8, the FHWA California Division conducted a desk review. The desk review involved 100% sampling, and was intended to correlate the project descriptions stated on the CE forms with the regulatory definitions of the categories of CE determinations in 23 CFR 771.117 and Appendix A.

Information is presented as:

Finding - A statement pertaining to compliance with a regulation, statute, FHWA guidance, policy, or procedures, DOT&PF procedures, or the Section 6004 MOU.

Observation - Circumstances noted where FHWA believes a process or procedure may be improved.

Corrective Action – An action required to address a deficiency identified in a finding.

Recommendation – The Review Team's suggestion on how to improve a process or procedure based on an Observation.

Results

A total of 319 individual CE determinations for Caltrans' Districts 7 and 8 were reviewed. The breakdown is provided below (CP = Capital Program; LA = Local Assistance). It is noted that, in all cases, Caltrans only identified one CE even though multiple CEs could have been identified since a single CE did not cover all the various facets of a project as identified in the project description. If the selected CE was at least partially applicable or the most applicable, the determination was considered accurate for purposes of this review. A complete listing by project and FHWA comments are provided as Attachment 2.

District 7 (CP): 117
District 7 (LA): 111
District 8 (CP): 44
District 8 (LA): 47

The majority of the CE determinations were appropriate. If the full project files were reviewed it is believed that a higher percentage of CE determinations would have been accurate.

Regarding the detailed evaluation:

The Team determined that of the 117 Capital Programs CE's in District 7, only two were in error. However, the Review Team identified 3 others were insufficient information was provided to make a definitive conclusion. Disregarding the latter three, accuracy exceeds 98% (112 of 114). If an assumption was made that the three unknowns were not correct, the lowest possible score would be 96% (112 of 117);

For the 111 CEs evaluated for District 7 Local Assistance, 20 were determined to be inaccurate, a determination could not be made on three, three were found to be partially accurate and 11 were considered potentially accurate. The latter 11 were all Emergency Relief projects, but no documentation regarding the Governor or President's declaration or a Damage Assessment Form was provided. This information was also lacking in the Project Description. Assuming these are accurate, in addition to the three that were potentially accurate and not considering the three unknowns, the Team determined that the accuracy of determinations to be approximately 81% (88 of 108). If the three unknowns are not accurate, accuracy would be 79% (88 of 111). In a

worst case scenario, adding the 11 Emergency Relief projects as inaccurate due to a lack of documentation, the accuracy figure would drop to 69% (77 of 111);

Of the 44 projects in District 8 Capital Programs, four were determined to be inaccurate and not enough information was provided to make a decision on eight others. Assuming the latter eight are accurate, overall accuracy would be 91% (40 of 44). If these eight are not correct, accuracy would fall to 73% (32 of 44).

For District 8 Local Assistance, of the 47 projects, six determinations were inaccurate, two potentially accurate and not enough information was provided to make a determination for one. Not considering the latter one, accuracy would be 87% (40 of 46); if it were determined to be accurate, accuracy would slightly increase to 89% (41 of 47). If the unknowns were considered an inaccurate determination, accuracy would fall slightly to 85% (41 of 47).

In summary, the potential range of accuracy is identified below.

District 7 Capital Programs: 96 to 98%
District 7 Local Assistance: 69 to 81%
District 8 Capital Programs: 73 to 91%
District 8 Local Assistance: 85 to 89%

The Team determined that 32 CEs were improperly classified. Of these, over half (19#) involved the use of CEs D-1 (13#) and C-1(6#). Much of the problem in using C-1 appears to be that the CE form only identifies a limited portion of the actual verbiage. This needs to be corrected on the form. Other misidentifications were C-4 (4#), C-3 (2#), C-8 (2#), D-2 (2#) and one each for CEs D-3, D-8 and C-15. Misuse of a particular CE appeared to be clustered by office. That is, whereas one office may have improperly used a particular CE, it may not have been a problem with the other offices.

Most of the CE determinations that could not be verified were a result of poor and/or inadequate project descriptions. Therefore, the FHWA reviewers could not make a definitive determination on their accuracy. This is an area that should be considered to be in need of improvement. The Team believes that a simple outline of the information needed in the project description would facilitate independent reviews and provide needed support for CE determinations. Related to this is the omission of Right-of-Way information. Typically, CEs do not involve the appreciable acquisition of additional Right-of-Way. This determination and/or the need for any easement should be stated in any CE determination, as applicable.

Another issue is incomplete documentation of technical studies that were done or consultations that were conducted. This is particularly evident when consultations should have been done relative to Section 7 of the Endangered Species Act, Section 4(f) of the Transportation Act of 1966 and Section 106 of the National Historic Preservation Act. Although the need for consultation may have been identified, there was no indication of what was done and what the disposition was. Some other occasional errors were typographical mistakes for CE determinations, omission of a signature and conflicting statements (e.g., a need for an easement, but "no acquisitions necessary").

Review of Caltrans' Response to Questionnaire

Caltrans is a large organization comprised of a Headquarters and 12 Districts. Some of the districts are also related by region such as Districts 1, 2 and 3 in the North Region and Districts 5, 6, 9 and 10 in the Central Region.

Caltrans' offices can also be very independent based on regional needs and issues. As such, answers to the questionnaire can vary considerably, which can make State-wide interpretations difficult. Below is the FHWA California Division's interpretation of the survey results. The eight questions are provided in Attachment 1and the results are summarized below.

1. Training – According to the survey it appears that the basic NEPA/CEQA training for HQ Capital Programs (CP) on Assignment may have not been conducted since 2007. Although some associated training is indicated, no dates were provided. HQ also provided some focused training for one district as a corrective action to address a finding in the previous Process Review. This training was successful as was evidenced in the marked improvement in the district's performance apparent in this review. In addition, six training sessions for Local Assistance (LA) have been provided at State-wide locations between September 2010 and March 2011. A variety of informal training has been conducted that consisted of workshops, on-line training, mentoring, "on-the-job," and similar activities on a district-by-district basis. Although one district (LA) cited budget shortfall for not conducting training, at least three districts (CP) did not provide any information as to why no training has been recently provided.
2. Data Management - CP is developing a database system named STEVE which was rolled out last year. LA uses LP2000. Integration of the two systems has been on-going for several years. Currently, at least five districts are importing data from LP2000 into STEVE. Work is continuing with a gap analysis and how to better integrate the two systems. It appears that continued progress is being made in developing compatibility of the two tracking systems; however, using two separate systems is still creating difficulties. LA is also developing a new system (CTIFS) that is expected to have environmental function integration. However, CTIFS is not expected to be a final product for five to six years.
3. Records Management - Storage of CE information is done at the districts and different procedures are used. For example, information may be stored electronically and, perhaps, a hard copy in the file. Another observation was that there is a wide variety of personnel responsible for maintaining the information, including, senior, generalist or project planners, environmental coordinators or other staff.
4. Environmental Commitment Compliance - Guidance for environmental commitment compliance is provided in Chapter 39 of the SER and all projects are required to have an Environmental Commitment Record or similar document. Typically, this is incorporated into the PS&E document and/or identified in the final voucher. It appears that the final determination of compliance rests with the RE or DLAE. However, this may be compromised to an extent since LA is self-certifying (e.g., a signed "Certificate of Environmental Compliance") and at least one district indicated that receipt of ECRs from

the local agencies was "not great." A couple of other statements also had negative connotations. These included not having resources to monitor mitigation efforts and that avoidance and minimization were practiced, but no mitigation (i.e., compensation) was developed for CEs. On the plus side, there are efforts to set up long-term mitigation and monitoring needs into a separate project and at least four districts have construction liaisons, which we have found to be very beneficial in following through with environmental commitments. One final note is the LA HQ did an internal Process Review and found 100% compliance with environmental commitments.

5. Assignment Time Savings - Most districts indicated that CE assignment has resulted in time savings. However, the estimates varied widely since there appears to be no systematic approach or identified quantification. These estimates ranged from "minimal," one to four weeks, to several months. It appears that the most time saving is with those projects requiring consultation, particularly pursuant to Section 7 of the ESA.
6. Process Implementation - As previously expressed, the districts are quite autonomous and rely heavily on existing guidance and procedures, particularly as presented in the SER and the Local Agency Procedures Manual. HQ's involvement with the districts tends to focus on training, State-wide policy and keeping the districts up-to-date on developing issues. HQ is also involved in providing liaisons to the resource agencies that are dedicated to process transportation projects. This provides more cooperation and collaboration among the involved parties.
7. Interdisciplinary Team - The universal response to whether an interdisciplinary team was involved in the processing of CEs was yes.
8. Standard Environmental Reference Updates - Since 2007 there have been no fewer than eight updates to the SER that are relevant to NEPA assignment. These include changes to Chapter 38 relative to the requirements of the Pilot Program, modifications to the CE form and the addition of a CE Checklist, re-validation (NEPA re-evaluation) guidance, Section 4(f) guidance in Chapter 20, updating the Environmental Certification completed at Ready-to-List and updating new noise protocol (Chapter 12). Other changes include an update to the Right-of-Way Manual regarding early acquisition procedures and minor changes to the Project Development Procedures Manual. LA has done modifications to the Local Assistance Procedures Manual relative to documenting and transmitting environmental documents, Preliminary Environmental Screening Form and Procedures for Long-Term Environmental Mitigation Measures.

Findings and Observations

Finding #1: CE (C-9) was used for Emergency Relief (ER), but no information was provided indicating that an emergency situation had been declared by the Governor or President. The cause of this appears to be a lack of training/information sharing or on-the-job experience. This has an effect of not supporting decision-making for the administrative record. The Caltrans documentation lacked information that the project was properly classified. Stipulation IV(B)(6) requires the State to document the specific categorically excluded activity in the project file. The reviewers were unable to verify if the CE designation was appropriate for several projects. Caltrans should have documented the specific categorically excluded activity, in this case that the action was an emergency repair the meet the conditions of 23 U.S.C. 125. The corrective

action could include instituting a quality control process as providing guidance to staff on what constitutes adequate information to document specific categorically excluded activities. Specifically, information needs to be provided to document the Governor's or President's declaration, including County, ER identification number and date provided in the Project Description. This can also be satisfied with inclusion of the FHWA Damage Assessment Form. This occurred as follows, rounded to the nearest percentage of the total CEs reviewed:

District 7 CP: 2 occasions (2%)
District 7 LA: 14 occasions (13%)
District 8 CP: 9 occasions (20%)
District 8 LA: 1 occasional (2%)

Finding #2: Many CEs do not discuss coordination/consultation with the resource/regulatory agencies even though the project may be in listed species habitat or may have cultural resources occurring on-site. This also appears to be a lack of clear guidance on what information is essential to support a CE determination. The effect is that the administrative record may not reflect compliance with laws and regulations intended for protected/regulated resources. This includes the Regional Water Quality Control Board (RWQCB) for Section 401 permitting, US Army Corps of Engineers for Section 404 permitting, US Fish and Wildlife Service and/or National Marine Fisheries Service for Section 7, Endangered Species Act consultation, and State Historical Preservation Office for Section 106 consultation. Stipulation IV(B)(3) of the MOU requires the State to carry out the other environmental responsibilities assigned under the MOU, as necessary or appropriate for the activity. Certain permits and consultation are required for environmental responsibilities assumed by the State. Failure to document coordination or consultation with appropriate agencies for responsibilities assumed means project files lack evidence of compliance with environmental responsibilities Caltrans has assumed. All project files should contain discussions of coordination with agencies performed as part of its assumption of environmental responsibilities. Lack of evidence could indicate Caltrans has not satisfied all requirements for environmental responsibilities assumed. Corrective actions could include instituting a process of quality control, training and guidance for field offices, and modification to existing project documentation forms. Through the use of the standard CE template, identification of needed consultation/permitting can be identified. The actions/outcome can be provided in the CE narrative. Data is somewhat lacking or inconclusive for this often due to incomplete project descriptions and/or a lack of clear information to conclude that coordination or consultation should have been conducted. For projects that indicate this should have been done, 3 (3%) were identified in D-7 CP, 2 (2%) in D-7 LA, 12 (30%) in D-8 CP and 6 (13%) in D-8 LA.

Observation #1: Many project descriptions were insufficient to fully explain the proposed work. This is a variation of the finding described above. The cause is similar to that identified in the above-noted Finding #1, that there may not be any written guidelines for what information is essential in the administrative record to support decision-making. Effects of poor project descriptions include not being able to support the qualifications for a CE. While it is not clear that a project decision was made that was unsupportable, clarifying the detail expected for CE documentation would improve Caltrans procedures. Stipulation IV(B) requires the State to

institute a process to identify, review, and document project effects. Caltrans should include project descriptions that adequately explain the projects so that they may be adequately reviewed and any project effects considered and documented. Not clearly or completely describing a project makes it difficult to evaluate whether a project is properly classified and determine whether any effects were appropriately considered. The recommendation is to provide focused training for the districts. This would provide more detail in the project description, including specific location, purpose of the action and work to be undertaken.
For project descriptions do not clearly explain proposed work. This occurred as follows:

District 7 CA: 20 occasions (17%)
District 7 LA: 40 occasions (36%)
District 8 CP: 10 occasions (23%)
District 8 LA: 2 occasions (4%)

Observation #2: CE documentation is highly variable in the version of the CE form/Checklist and in the information provided. The effect is a lack of consistency in documentation, which could result in the omission of important information. The CE form is available on the SER. Stipulation IV(B)(1) requires the State to institute a process to identify and review the environmental effects of projects. This performance review identified non-standard documentation of project reviews that suggests that the State's procedures might be improved. If the State's process to review and identify environmental effects for projects is highly variable, there is a possibility that some CE determinations may be made inappropriately. The suggested remediation is to provide focused training for the districts, which could include instituting a quality control process, providing guidance or training, and requiring use of the CE form and Checklist available from the SER. (Attachment 3)

Observation #3: Some CEs did not provide information on whether or not Right-of-Way (ROW) acquisition is required. This observation is a variation of Observation 2 where the project description records were either incomplete or vague regarding whether the project would extend outside the existing roadway corridor. The State should clearly indicate whether or not the acquisition of any ROW would be needed. The remediation is to provide focused training for the districts. This could entail revising CE documentation forms to specify if new right-of-way is needed and why.

Due to time constraints and perhaps inconsistent approaches by the review team, the only reliable data come from District 7 CA. The team concluded that adequate information was not provided on 26 occasions (22%).

As identified above, there is room for improvement for each of the review items, at least on an office-by-office basis. It is believed that improved project descriptions and use of the CE checklist would significantly improve performance.

Additional Recommendations:

Below, we provide additional suggestions that we believe will improve the completeness of CE documentation in demonstrating compliance with Stipulation IV(B) of the MOU.

- Only provide relevant information (e.g., don't include narrative for ESA if no listed species are present in the project area). This also includes not providing the Preliminary Environmental Study or Preliminary Environmental Assessment Report unless necessary to support a CE determination.
- If, "additional study is required," FHWA considers this a trigger of a statute or regulation and this needs to be addressed in the CE documentation, or the CE is not complete.
- The terms, "zero" or "no chance" of impacts (e.g., for Section 106), should not be used in NEPA documentation of any kind, because there is always the outside chance of an occurrence.
- Ensure the use of Environmental Commitment Record or similar document for each project, including all CE determinations.
- In all cases, only one CE was used, however, this often does not cover all facets of the proposed work. This occurred as follows:

  District 7 CP – no problems identified;
  District 7 LA – 40 occasions (36%);
  District 8 CP – no problems identified.
  District 8 LA – 2 occasions (4%).

  The cause of this simply appears to be an institutional mind-set. The primary effect is that portions of the project may not be authorized. Stipulation IV(B)(4) requires the State to identify the assigned CE that applies to each project. This information is necessary for FHWA to adequately monitor whether or not Caltrans has appropriately assumed CE-decision making responsibilities. Caltrans should have identified all applicable CE actions in their project documentation. Improvements could include instituting a quality control process to identify and correct oversights, providing guidance or training, and revising standard CE project documentation. In this way, where appropriate, Caltrans would identify multiple CE actions to describe all aspects of the proposed work. This may require a modification of the existing CE form. **However, this is under internal FHWA discussion and no determination of applicability has been determined at this time.**

Successful Practices

Successful Practice #1: Caltrans is consistent with updating applicable manuals, including the Standard Environmental Reference, Right-of-Way Manual, the Project Development Procedures Manual, in addition to providing additional guidance to the districts. However, it is unknown if Caltrans has issued any State-wide guidance that specifically references 23 CFR 771.107(c) in addressing "FHWA nexus" and "Federal nexus." This was Recommendation #1 from the 2009-10 Process Review.

Successful Practice #2: Caltrans continues to provide training to staff, particularly relevant to NEPA assignment and associated laws and regulations. One particular high note was the specialized CE training to District 7 CP, producing a marked improvement in the accuracy of CE determinations.

Successful Practice #3: Efforts are being made to continue integrating data exchange and compatibility between LP2000 (LA) and STEVE (CP). FHWA acknowledges that this is an involved and complicated effort but continues to encourage its implementation.

Successful Practice #4: The use of interdisciplinary team to evaluate applicability of a CE determination.

Conclusion

This is the third Process Review for the CE assignment (Section 6004 of SAFETEA-LU). This included a review of the six recommendations made in the 2010 monitoring report and other suggestions to improve performance from the second review. Although satisfactory progress in addressing the previous recommendations has been made, this report identifies two findings and three observations that should be addressed. Thus, there is still room for improvement regarding improving project descriptions and providing documentation for coordination or consultation with other involved agencies. These were followed up on as part of this 2011-2012 review.

This review resulted in two findings, three observations, and six additional recommendations. The findings and observations addressed Emergency Relief, inter-agency coordination, project descriptions, quality control and ROW. Additional recommendations primarily dealt with necessary information needed to make informed decisions on CE applicability.

Based on the review of project records, adequate documentation ranged from 69% to 98% with an average of 87% of the files reviewed. The balance of files either contained vague or missing, information. It is believed that the most accurate figure is toward the high end, but important information or documentation was lacking. Over half of the errors were attributed to the use of CEs D-1 and C-1. One significant improvement occurred in CP, District 7, which had the highest accuracy of the four sub-groups evaluated.

Stipulation IV(E)(1) requires the State to carry out regular quality control activities to ensure that its CE determinations are made in accordance with applicable law and the MOU. This report identifies a need for regular quality control as a possible way to address limitations in project record-keeping, Caltrans should address the current status of its quality control actions in its corrective action plan from this report.

The next Process Review will take into account the 2012 Transportation Bill (MAP-21). The focus and breadth of the next review will be coordinated with Caltrans at that time.

Within 30 days of receipt of this final report, the FHWA California Division requests that Caltrans provide an Implementation Plan on how Caltrans intends to address the review team's conclusions in this report.

Attachment 1

Survey Questions for the FY 2011 Review

Survey Questions for the FY 2011 Review

The survey was sent to Caltrans HQ, which was then distributed to the 12 Districts, and a unified response was provided to FHWA.

1. What training has been conducted relative to the CE assignment?

2. What has been done to integrate/cross reference the CE data management between Capital Projects (CP) and Local Assistance (LA) and efforts to improve communication/collaboration?

3. How is the CE information being stored; where is the information being maintained and who is responsible?

4. How is any mitigation commitments implemented and determined to be successful?

5. Has there been time savings with assignment and CE determinations? If so, what is the estimated average time savings per CE? How is it determined?

6. To what extent does the district rely on regional or headquarters assistance?

7. Does qualification as a CE require an interdisciplinary team?

8. What updates have been done to Caltrans' manuals (e.g., Standard Environmental Reference, Right-of-Way Manual, Traffic Manual, etc.)

Attachment 2

Detailed Spreadsheets of Individual CEs

6004 MOU Categorical Exclusion Review 2011							
Local or Capital	District	Caltrans EA#	Federal Aid Project #	Exclusion	Appropriate Use of Exclusion?	FHWA Recommended Exclusion	Comments
Capital	7	0AA070	201009012	C-19	Yes	C-21?	C-21 may be more appropriate if this is not a transit facility.
Capital	7	1W0001	201106024	D-1	Yes		
Capital	7	1W0301	201101005	D-1	Yes		Project description was insufficient. No ROW information.
Capital	7	1W0401	201011003	C-7	Yes		
Capital	7	1W0501	201104023	D-3	Yes		
Capital	7	1W0801	201104011	D-1	Yes		
Capital	7	2X6101	201010008	C-9	Yes		Checklist was missing.
Capital	7	2X67100	201007008	D-1	Yes		Project description was insufficient. No ROW information.
Capital	7	2X7200	201003010	C-9	Yes		Project description was insufficient. No ROW information.
Capital	7	2X7200 REVAL	201003010		Yes		This CE was generated to acquire funding, and was based on a previous document (EA 2X720).
Capital	7	2X9201	201012006	A-1	Yes		Checklist was not complete. 16 boxes not checked for "Does Project Trigger Statute or Regulation."
Capital	7	3P2301	201009005	D-2	Yes		
Capital	7	3P2501	201008004	D-1	Yes		Boxes not checked for "Does Project Trigger Statute or Regulation."
Capital	7	3P2701	201101007	D-2	Yes		D-2 mismarked as "D-1" under, "Caltrans NEPA Determination". Number 3, "Unusual Circumstances", not filled out.
Capital	7	3P2901	201011006	A-1	Yes		
Capital	7	3P3001	20110226a	D-1	Yes		
Capital	7	3P3501	201005009	C-7	Yes		
Capital	7	3P3604	20100004	C-7	Yes		
Capital	7	3P3700	201010003	C-7	Yes		
Capital	7	3P3800	201101008	C-7	Yes		
Capital	7	3P4100	201011001	D-2	Yes		Project description was insufficient. No ROW information.

Capital	7	3P4201	201010007	D-1	Yes		Project description was insufficient. No ROW information. Number 3, "Unusual Circumstances", not filled out. Box not checked for "Historic Preservation", under heading "Does Project Trigger Statute or Regulation."
Capital	7	3P4201	201101011	D-1	Partial	D-2	Project description was insufficient. This is only partially a rehab project, for full coverage D-2 needs to be added for the guardrail. No ROW information. Number 3, "Unusual Circumstances", not filled out. Box not checked for "Historic Preservation", under heading "Does Project Trigger Statue or Regulation."
Capital	7	3P4501	201101002	D-2	Yes		
Capital	7	3P4601	201011010	C-7	Yes		Project description was insufficient. No ROW information. Number 3, "Unusual Circumstances", not filled out. Box not checked for "Historic Preservation", under heading "Does Project Trigger Statue or Regulation."
Capital	7	3X0300	201008006	A-4	Yes		Dates were given in the checklist for studies, but the type of study was not provided.
Capital	7	3X0500	201007002	A-1	Yes		The project description was inadequate, there is no ROW information, and work was done on an adjacent property. The project description states that Cultural Resources will not be affected, but there is no reference to any surveys or clearance.
Capital	7	3X0600	201006018	D-1	Yes		The checklist is not complete.
Capital	7	3X0700	201007004	D-1	Yes		
Capital	7	3X1200	201007003	D-1	Yes		
Capital	7	3X1300	201007003	A-4	Yes		Number 3, "Unusual Circumstances", not filled out.
Capital	7	3X1400	201007011	C-8	Yes		Number 3, "Unusual Circumstances", not filled out. The, "Endangered Species" section was checked, "Yes", but it is not clear if the USFWS was consulted, and no determination was checked.
Capital	7	3X1900	201007012	C-9	?		The project description was not adequate; there is no ROW information and no stated declaration of emergency.
Capital	7	3X2004	201101010	C-19	Yes		The project description was not adequate, there is no ROW information.

Capital	7	3X2301	201102006b	A-4	Yes		The project description was not adequate, there is no ROW information. Number 3, "Unusual Circumstances", not filled out.
Capital	7	3X2401	201103003	UNK	?	C-2	The project description was not adequate, there is no ROW information. No exemption was selected. Author used language to describe the presence/absence of species as, "There is zero percent chance of occurrences." There is no checklist attached, so the reader can't make a determination that Caltrans has considered all potential impacts.
Capital	7	3X2500	201101012	A-4	Yes		
Capital	7	3X2600	201102007	D-1	Yes		
Capital	7	3X2800	201104015	A-2	Yes		Exemption D-1 and A-2 are both used in the document. The checklist is not complete.
Capital	7	3X2900	201104014	A-4	Yes		Different form was used. Same person has used two different forms.
Capital	7	3X3100	201104003	A-1	Yes		
Capital	7	3X3400	201105006	C-9	?	C-7 and A-4	There is no stated declaration of emergency in the project description. Both C-7 and A-4 are appropriate.
Capital	7	3X3800	201104026	A-4	Yes		
Capital	7	3X4200	201105009	A-4	Yes		
Capital	7	3X4600	201104027	D-3	Yes		
Capital	7	3X4800	201106004	D-1	Yes	or D-4	D-4 may be more applicable.
Capital	7	3X4900	201106005	D-1	Yes		
Capital	7	3X5000	201106006	D-1	Yes		
Capital	7	3X5100	201106007	D-1	Yes		
Capital	7	3X5300	201106008	D-1	Yes		The project description was not adequate, there is no ROW information.
Capital	7	3X5400	201106009	D-1	Yes		
Capital	7	3X5700	201106011	D-1	Yes		
Capital	7	3X5800	201106012	D-1	Yes		
Capital	7	3X6000	201106014	D-1	Yes		
Capital	7	3X6100	201106015	D-1	Yes		

Capital	7	3Y6501	201007009	D-1	No	D-3	The Checklist is not complete. This is a bridge-related project and D-3 is more applicable.
Capital	7	3Y6701	201009010	D-3	Yes		
Capital	7	3Y8001	201007013	D-1	Yes		
Capital	7	3Y9501	201100002	D-1	Yes		
Capital	7	3Y9901	201009011	D-1	Yes		The Checklist is not complete.
Capital	7	4N9201	201011002	D-1	Yes		The project description was not adequate, there is no ROW information.
Capital	7	4S1901	201105015	C-8	Yes		
Capital	7	4T2200	201010005	D-1	Yes		The project description was not adequate, there is no ROW information.
Capital	7	4T2401	201008007	C-7	Yes		
Capital	7	4T2700	201009003	D-2	Yes		
Capital	7	4T3201	201010001	C-7	Yes		The project description was not adequate, there is no ROW information.
Capital	7	4T3700	201104004	D-3	Yes		
Capital	7	4T3700	201104004	D-2	Yes		
Capital	7	4T3900	201104013	C-8	Yes		The project description was not adequate, there is no ROW information.
Capital	7	4T4200	201104005	C-8	Yes		Project description was incomplete, with very little information.
Capital	7	4T4300	201104001	D-2	Yes		
Capital	7	4Y0101	201010009	D-1	Yes		Checklist is incomplete.
Capital	7	4Y0301	201009004	D-3	Yes		
Capital	7	4Y0401	201104012	D-1	Yes		
Capital	7	4Y4801	201106022	D-1	Yes		
Capital	7	4Y0901	201103007	D-1	Yes		
Capital	7	4Y1500	201012001	D-2	Yes		
Capital	7	4Y1901	201010014	D-3	Yes		Exclusion C1 is marked in the "Caltrans NEPA Determination", and then D3 is marked on the Checklist.
Capital	7	4Y2401	201101006	D-3	Yes		The project description was not adequate, there is no ROW information. Number 3, "Unusual Circumstances", not filled out.
Capital	7	4Y2701	201008005	D-3	Yes		

Capital	7	4Y2801	201009009	D-3	Yes		
Capital	7	4Y3001	201009007	D-3	Yes		
Capital	7	4Y3101	201006021	D-1	Yes		The project description was not adequate, there is no ROW information.
Capital	7	4Y3401	201007010	D-1	No	D-3	This is a CE for 19 bridge projects, D-3 is more appropriate.
Capital	7	4Y3501	201006013	A-2	Yes		Checklist was not filled out.
Capital	7	4Y3701	201006019	A-2	Yes		
Capital	7	4Y5201	201104025	D-1	Yes	and C-8 and C-21	Both C-8 and C-21 apply as well.
Capital	7	4Y5301	2011006023	D-1	Yes	and C-8 and C-21	Both C-8 and C-21 apply as well.
Capital	7	4Y5501	201102009	D-1	Yes		
Capital	7	4Y5600	201103001	D-1	Yes		
Capital	7	4Y6901	201009006	D-2	Yes		The project description was not adequate, there is no ROW information.
Capital	7	4Y7001	201009008	D-3	Yes		Unusual Circumstances section is not filled out.
Capital	7	4Y7201	201012003	D-2	Yes		
Capital	7	4Y7401	201100001	D-3	Yes		No ROW information is provided.
Capital	7	4Y7501	201011011	D-3	Yes		Unusual Circumstances section is not filled out.
Capital	7	4Y8201	201105002	D-3	Yes		No ROW information is provided.
Capital	7	4Y8301	201105011	D-3	Yes		No ROW information is provided.
Capital	7	4Y8501	201011005	D-3	Yes		No ROW information is provided.
Capital	7	5F2000	201101001	A-2	Yes		The Caltrans NEPA Determination box is checked for A-1, and the Categorical Exclusion Checklist is checked for A-2. No ROW information is provided.
Capital	7	202110	201009002	D-1	Yes	and D-3	D-3 should be included to cover the bridge work.
Capital	7	252801	201010012	D-1	Yes	and C-21	C-21 would cover the loop detectors.
Capital	7	252801	201103004	D-1	Yes	and C-21, D-2, C-2	C-21, D-2 and C-2 should be included to cover loop detectors, electrical work and safety improvements.
Capital	7	258800	201012005	A-1	Yes		
Capital	7	258391	201106001	A-1	Yes		
Capital	7	264900	201007007	A-5	Yes		No ROW information is provided.
Capital	7	266401	2011007006	D-2	Yes		No Checklist was provided.
Capital	7	277900	201012004	A-2	Yes		

Capital	7	280300	201102008	C-15	Yes		
Capital	7	282700	201010010	D-2	Yes		
Capital	7	285100	201009001	D-10	Yes		No ROW information and the Checklist are not filled out.
Capital	7	286600	201103002	A-1	Yes		No ROW information. Project description is insufficient.
Capital	7	286700	201103008	A-1	Yes		No ROW information.
Capital	7	286900	201010013	D-1	Yes		No ROW information.
Capital	7	287101	201012002	D-2	Yes		
Capital	7	287200	201104006	A-1	Yes		
Capital	7	287400	200101009	D-2	Yes		
Capital	7	289000	201105013	D-1	Yes		No ROW information.

6004 MOU Categorical Exclusion Review 2011						
Local or Capital	District	Caltrans EA#	Exclusion	Appropriate Use of Exclusion?	FHWA Recommended Exclusion	Comments
Local	7	BHLO-5952(151)	C-1	No	Not Eligible	C-1 CE is only for administrative purposes and do not involve or lead directly to construction. Also, ROW information is inconsistent. The documentation states that no ROW acquisitions will be necessary, and the document also states that permanent easement will need to be acquired. The document states that a trench will be dug across the streambed, and states later that all work will take place from the bridge deck. The document states that endangered and threatened species is TBD in the checklist, and then states that there are no TE species. The document states that the contractor will be responsible for obtaining space for staging areas, and that farmland may be available, but there is no indication that surveys have been performed for wetlands, TE or potential cultural impacts.
Local	7	BHLO-5952(152)	C-1	No	Not Eligible	C-1 CE is only for administrative purposes and do not involve or lead directly to construction. Also, ROW information is inconsistent.
Local	7	BHLS-5347(029)	D-3	Yes	and C-3	C-3 covers the work for the bike lanes.
Local	7	BRLO-5952(153)	C-1	No	Not Eligible	C-1 CE is only for administrative purposes and do not involve or lead directly to construction. Also, ROW information is inconsistent.
Local	7	CML-5006(665)	C-21	Yes		Unusual Circumstances not completed. Unusual format with too much information.
Local	7	CML-5006(675)	C-1	No	C-13, or C-17	C-1 is not applicable, it applies to administrative actions. The entire description of the exclusion should be included in the CE Form. The exclusion is being misinterpreted due to the truncation of the full description.
Local	7	CML-5006(677)	D-1	No	C-7 and C-15	C-7 and C-15 are both appropriate since several types of work are being done.
Local	7	CML-5006(680)	C-3	Yes		
Local	7	CML-5026(048)	D-3	Yes		
Local	7	CML-5108(130)	C-3	Yes		

Local	7	CML-5108(131)	D-1	No	C-7	D-1 does not apply; this is solely a landscaping job.
Local	7	CML-5231(013)	C-1	No	C-8	C-1 is essentially for administrative actions, this is project for pedestrian usage.
Local	7	CML-5355(023)	D-1	No	C-7, C-8, C-3 & C-15	C-7, C-3, C-8 and C-15 all apply.
Local	7	CML-5373(015)	C-8	Yes		
Local	7	CML-5393(017)	C-3	Yes		There should be some follow-up on permitting needs.
Local	7	CML-5405(063)	C-3	Yes		
Local	7	CMLG-6155(074)	C-13	Yes		
Local	7	CMLG-6155(076)	C-13	Yes		
Local	7	DEM09L-5450(060)	C-21	Yes		
Local	7	DEM09L-5450(061)	D-1	Partial	D-2, C-2	There is more proposed than just rehab work; only the asphalt and striping would be considered rehab work. D-2 and C-2 are both necessary to cover the rest of this work.
Local	7	ER-4620(002)	C-9	Yes		
Local	7	ER-4620(003)	C-9	Maybe	C-8?	The information provided in the project description does not clearly indicate how this project is in compliance with 23 CFR 125. It would be helpful to have the DAF for all of the ER Projects.
Local	7	ER-4620(004)	C-8	Maybe		Two CE forms, one is signed the other is not. C-8 is used instead of C-9, which is for ER projects. The information provided in the project description does not clearly indicate how this project is in compliance with 23 CFR 125.
Local	7	ER-4620(005)	C-9	Maybe		The information provided in the project description does not clearly indicate how this project is in compliance with 23 CFR 125.
Local	7	ER-4620(006)	C-9	Yes		The information provided in the project description does not clearly indicate how this project is in compliance with 23 CFR 125.
Local	7	ER-4620(007)	C-9	Maybe		The information provided in the project description does not clearly indicate how this project is in compliance with 23 CFR 125.
Local	7	ER-4806(001)	C-9	Maybe		The information provided in the project description does not clearly indicate how this project is in compliance with 23 CFR 125.
Local	7	ER-4806(002)	C-9	Maybe		The information provided in the project description does not clearly indicate how this project is in compliance with 23 CFR 125. The DAF was included for 1-4, but the DAF was not signed by an FHWA engineer.

Local	7	ER-4806(003)	C-9	Maybe		The information provided in the project description does not clearly indicate how this project is in compliance with 23 CFR 125. The DAF was included for 1-4, but the DAF was not signed by an FHWA engineer.
Local	7	ER-4806(004)	C-9	Maybe		The information provided in the project description does not clearly indicate how this project is in compliance with 23 CFR 125. The DAF was included for 1-4, but the DAF was not signed by an FHWA engineer.
Local	7	ER-4806(005)	C-9	Maybe		The information provided in the project description does not clearly indicate how this project is in compliance with 23 CFR 125. The DAF was included for 5-8, but the DAF was not signed by an FHWA engineer.
Local	7	ER-4806(006)	C-9	Maybe		The information provided in the project description does not clearly indicate how this project is in compliance with 23 CFR 125. The DAF was included for 5-8, but the DAF was not signed by an FHWA engineer.
Local	7	ER-4806(007)	C-9	Maybe		The information provided in the project description does not clearly indicate how this project is in compliance with 23 CFR 125. The DAF was included for 5-8, but the DAF was not signed by an FHWA engineer.
Local	7	ER-4806(008)	C-9	Maybe		The information provided in the project description does not clearly indicate how this project is in compliance with 23 CFR 125. The DAF was included for 5-8, but the DAF was not signed by an FHWA engineer.
Local	7	ESPL-5006(569)	D-1	Yes	and C-15	C-15 covers the ADA-related work.
Local	7	ESPL-5149 (011)	D-1	Yes		
Local	7	ESPL-5212(007)	D-1	Yes		
Local	7	ESPL-5259(022)	D-1	Yes	and C-15	C-15 covers the ADA-related work.
Local	7	HP2IL-5164(011)	D-1	Yes		
Local	7	HP2IL-5953(580)	D-2	Yes		C-21 may be more appropriate.
Local	7	HPLU-5210(014)	D-1	Yes		
Local	7	HPLU-5210(014) Reeval	D-1	Yes		
Local	7	HPLUL-5006-(539)	C-7	Yes		
Local	7	HPlUL-5006(638)	D-1	Yes		
Local	7	HPLUL-5108-128)	D-1	No	D-2 & C-7	D-1 is not applicable; this does not fit the description of D-1.
Local	7	HPLUL-5118-(016	C-3	Yes		
Local	7	HPLUL-5249(022)	D-1	Yes		
Local	7	HPLUL-5348(021)	C-15	Yes		

Local	7	HPLUL-50006(643)	D-1	No	D-2	D-1 is not applicable; this does not fit the description of D-1.
Local	7	HSIP-5204(015)	D-1	No	C-21 & C-8	D-1 is not applicable; this does not fit the description of D-1.
Local	7	HSIPL-5006(671)	C-8	Yes		
Local	7	HSIPL-5006(672)	C-8	Yes		
Local	7	HSIPL-5006(673)	C-8	Yes		
Local	7	HSIPL-5093(017)	C-3	No	C-21	C-3 is for construction of bicycle paths, not the addition of lighting.
Local	7	HSIPL-5093(018)	C-3	No	C-21	C-3 is for construction of bicycle paths, not the addition of lighting.
Local	7	HSIPL-5129(064)	C-8	Yes		
Local	7	HSIPL-5129(065)	C-8	No	C-15 & C-21	ADA related and electronic deployments are more appropriate for this CE.
Local	7	HSIPL-5155(010)	C-8	Yes		
Local	7	HSIPL-5164(025)	C-8	Yes		
Local	7	HSIPL-5200(038)	C-8	Yes		
Local	7	HSIPL-5200(039)	C-3	Yes	D-2?	Does D-2 apply here as well?
Local	7	HSIPL-5331(010)	C-8	Yes	D-2 also	From the project description, C-8 does not cover all of the work.
Local	7	HSIPL-5331(017)	C-8	Yes		
Local	7	HSIPL-5334(039)	C-8	Yes		
Local	7	HSIPL-5334(040)	C-8	No	C-21	C-8 is not appropriate for the work described.
Local	7	HSIPL-5334(041)	C-8	Yes	C-21 also	C-21 would cover the installation of the video equipment.
Local	7	HSIPL-5362(020)	D-1	No	C-7, C-8, C-21	D-1 does not apply since the actual road itself is not being rehabbed.
Local	7	HSIPL-5378(021)	C-8	Yes		
Local	7	HSIPL-5450(063)	D-8	No	C-8 and C-15	
Local	7	HSIPL-5952(146)	C-3	Yes		
Local	7	HSIPL-5952(150)	D-1	Partial	and A-2	D-1 is partially applicable; this is primarily a drainage improvement project.
Local	7	HSIPL-5953(462)	?	?	D-2, C-21	No exclusion was provided in the document.
Local	7	ISTDEM-6065(163)	C-1	Yes		
Local	7	ISTDEM-6065(163)	C-1	Yes		
Local	7	RPSTPLE-5006(653)	C-3	Yes	C-7 and D-2	This project entails more than just bike lanes.
Local	7	RPSTPLE-	C-3	Yes	C-7. C-8	

		5006(654)				
Local	7	RPSTPLE-5162(021)	C-3	Yes	D-2 and C-8	This project entails more than just bike lanes.
Local	7	RPSTPLE-5349(008)	C-3	Yes	and C-8	
Local	7	RPSTPLE-5450(059)	C-7	Yes		
Local	7	RPSTPLE-5953(542)	C-8	Yes	D-2,and C-21	D-2 and C-21 should also be identified.
Local	7	RPSTPLE-5953(654)	C-8	Yes	D-1, C-7, C-15	D-1, C-7. and C-15 are all applicable and should be identified.
Local	7	RPSTPLE-5953(655)	C-7	Yes	C-3	This project also includes the construction of bike lanes.
Local	7	RSTPL-5953(531)	D-3	No	D-1	D-3 is for bridge-related work.
Local	7	SRTSL-5112(011)	D-1	No	C-8 and D-2	This project involved safety-related restriping and a lane reduction, not pavement rehab.
Local	7	SRTSL-5265(013)	D-1	No	D-2	This is a safety project, not rehab.
Local	7	SRTSL-5373(010)	C-8	Yes	D-2 and C-21	
Local	7	SRTSL-5413(009)	C-1	Yes		
Local	7	SRTSLNI-5006(645)	C-1	Yes		
Local	7	SRTSLNI-5006(663)	C-1	Yes		
Local	7	SRTSLNI-5006(666)	C-1	Yes		
Local	7	STPL-5107(027)	D-1	Yes		
Local	7	STPL-5108(134)	D-1	Yes	C-15, and C-8	All three exclusions apply.
Local	7	STPL-5118(017)	D-1	Yes		
Local	7	STPL-5315(012)	D-1	Yes	and C-8	
Local	7	STPL-5336(017)	D-1	Yes		
Local	7	STPL-5347(035)	D-1	Yes	C-15, and C-8	All three exclusions apply.
Local	7	STPL-5348(020)	D-1	Yes	and C-15	
Local	7	STPL-5364(007)	D-1	Yes	D-2 and C-15	All three exclusions apply.
Local	7	STPL-5373(016)	D-1	Yes	and C-8	
Local	7	STPL-5393(025)	D-1	Yes	and C-8	

Local	7	STPL-5450(067)	D-1	Yes	A-2 and C-8	All three exclusions apply.
Local	7	STPL-5450(068)	D-1	No	D-2 & D-7	Construction of a round-about is an operational improvement project, with landscaping, not rehabilitation.
Local	7	STPL-5463(016)	D-1	Yes	and C-15	
Local	7	STPL-5953(607)	D-1	Yes	and C-8	
Local	7	STPLER-5240(013)	?	?	C-3 and C-7	No exclusion was provided in the document.
Local	7	STPLG-5111(058)	C-8	Yes	C-15 and C-21	All three exclusions apply.
Local	7	STPLH-5200(037)	C-8	Yes	C-3 and C-21	All three exclusions apply.
Local	7	STPLH-5348(011)	D-1	Partial	D-2 and C-8	This is not just a rehab project. D-2 and C-8 are both applicable.
Local	7	STPLH-5348(014)	?	?	C-8	No exclusion was provided in the document.
Local	7	STPLN-5393(025)	D-1	Yes	and C-8	
Local	7	TCSP09L-5276(024)	D-1	Yes		

6004 MOU Categorical Exclusion Review 2011							
Local or Capital	District	Caltrans EA#	Federal Aid Project #	Exclusion	Appropriate Use of Exclusion?	FHWA Recommended Exclusion	Comments
Capital	8	OC2100		A-2	yes		Got Section 404 permit?
Capital	8	OC7421		C-8	yes		
Capital	8	OF1620GB		A-7	yes		
Capital	8	OF162-PH		A-7	yes		
Capital	8	OF2401		C-12	yes		
Capital	8	OJ850		D-3	yes		No evidence of Section 7 consultation or Section 404 permit.
Capital	8	OK240		D-1	yes		No evidence of Section 7 consultation.
Capital	8	OK7100		A-7	yes		No evidence of Section 7 consultation for "unoccupied" Critical Habitat.
Capital	8	OK7100		A-7	yes		Why the same number as previous?
Capital	8	OK3001		D-1	yes		A-1 or A-2 may be better choice.
Capital	8	OL710		C-15	yes		
Capital	8	OL930		D-8	no	See comments	Poor project description; missing signature; this is not a bus facility (administration bldg). Is it a truck inspection station? If so, C-12 or D-5 may apply.
Capital	8	OM400		D-2	yes		
Capital	8	OM8800		C-8	yes		
Capital	8	OM9800		D-1	yes		
Capital	8	ON240		C-15	no	See comments	Poor project description; no identified purpose; 404 implied with BMPs, but a later statement indicates that there are no waters. D-2 may apply.
Capital	8	ON2600		D-1	no	See comments	Poor project description; no identified purpose. Can't determine appropriate CE.
Capital	8	ON680		D-1	yes		
Capital	8	OP460		C-9	?	See comments	Very limited information provided (entire Project Description is "Emergency Project -Culvert/downdrain lost"); no evidence that this is a declared emergency. Implies that Section 404 permit needed. Seems that A-2 fits.

Capital	8	OP560		D-1	yes		Implies desert tortoise habitat, but no consultation information. "No effect" determination.
Capital	8	OP 590		C-9	?	See comments	Limited information provided (Project Description is "Emergency Project - Road-culvert/downdrain lost"). No evidence of declared emergency. Appears that A-2 fits.
Capital	8	OP640		D-1	yes		
Capital	8	OP600		D-3	yes		
Capital	8	OP800		C-1	no	D-1	May be typo.
Capital	8	OP930		D-1	yes		
Capital	8	OP970		C-9	?		Little info provided. Entire Project Description is "Emergency Project - one or more lanes lost." No evidence of declared emergency.
Capital	8	OP990		C-9	?		Little info provided. Project Description is "Emergency Project - failure or threat of failure." No evidence of declared emergency.
Capital	8	OQ100		C-9	?		Little info provided. Project Description is ""Emergency Project - portion of lane lost." No evidence of declared emergency.
Capital	8	OQ190		D-1	yes		
Capital	8	OQ550		C-9	?		"Director's Order." Very little info provided. Biological info in attachment - no attachment.
Capital	8	OQ580?		C-9	?		"Director's Order -repair pavement." Very little info provided. No evidence of declared emergency.
Capital	8	OP720		D-1	yes		
Capital	8	OP3801		D-1	yes		
Capital	8		HSIP5294(006)	C-8	yes		"No possibility" of effects to cultural resources. Limited noise info.
Capital	8		STPLH5453(012)	C-9	yes		"No possibility" of effects to cultural resources. Limited noise info.
Capital	8		SRSTLNI5954(123)	C-1	yes		Project description lacking.
Capital	8	33487		C-7	yes		"No potential" to impact cultural resources.
Capital	8	459001		A-2	yes		No indication regarding 401, 404 or 1602.

Capital	8	464600		A-7	yes		Located in gnatcatcher habitat, but "no impacts" determination.
Capital	8	341400		A-7	yes		
Capital	8	3401U		A-7	yes		No indication of what was being tested for.
Capital	8	OQ410		C-9	?	See comments	"Director's Order - repair undermined roadway." No info on emergency declaration. Likely needs Section 404 permit. ESA training, but no species identified and a "no impact" determination made.
Capital	8	OQ410		C-9	?	See comments	"Director's Order - repair undermined roadway." No info on emergency declaration. Likely needs Section 404 permit. ESA training, but no species identified and a "no impact" determination made.

6004 MOU Categorical Exclusion Review 2011							
Local or Capital	District	Caltrans EA#	Federal Aid Project #	Exclusion	Appropriate Use of Exclusion?	FHWA Recommended Exclusion	Comments
Local	8		BRLO5459(022)	D-3	yes		Gnatcatcher habitat. 404 needed?
Local	8		BR NBIL(504)	D-3	yes		No info on 401, 404 or 1602.
Local	8		CMIL5956(193)	D-3	yes		
Local	8		HPLUL 5058(084)	C-2	yes		No info on the historic property to be "rehabilitated."
Local	8		HSIPL 5033 045	C-4	No	C-8	No description of purpose from Highway Safety Plan. C-4 was intended to cover policy issues related to human health and safety.
Local	8		SRTSL 5065 022	C-8	yes		
Local	8		SRTSLNIL 5233(007)	C-21	yes		
Local	8		SRTSNIL 5420(019)	C-1	yes		
Local	8		CML 5414(010)	C-8	partially		Appears that C-15, A-2 and/or D-1 also apply.
Local	8		CML 5275(018)	C-8	yes		
Local	8		CML 5414(008)	D-1	yes		
Local	8		CML 5433(010)	C-8	yes		Who is being thanked for reviewing?
Local	8		CML 5433(011)	C-8	yes		
Local	8		ER4208(017)	D-2	no	A-2 & D-1	Is this emergency work? No info on Section 7 or 404.
Local	8		HSIPL5104(039)	D-2	yes		
Local	8		HSIP 5449(011)	D-1	yes		
Local	8		HSIPL 5441(046)	C-21	yes		
Local	8		HSIPL5956(190)	C-4	No	C-8 and C-15	Highway Safety Plan. Appears that C-15 and C-8 more applicable.
Local	8		HSIPL 5449(022)	C-7	yes		
Local	8		BRLO 5449(015)	D-3	yes		In Critical Habitat. No information on 401, 404 or 1602. Mitigation restoration plan to be provided by 2/15/2010 - no indications that it was.
Local	8		PNRSTCIL 5956(178)	D-3	yes		
Local	8		RPSTPLE 5209 005	C-3	yes		Limited info provided; appears that C-7 also

							applies.
Local	8		SRTSL 5294 009	C-3	yes		
Local	8		TCIFL 5058(080)	D-3	yes		
Local	8		TCIFL 6053(087)	D-3	yes		No info on 401, 404, 1602 or ESA

Attachment 3

Categorical Exemption/Categorical Exclusion Determination Form and Checklist

Categorical Exclusion Checklist (Continued)

Dist.-Co.-Rte. (or Local Agency)	P.M/P.M.	E.A. (State project)	Federal-Aid Project No. (Local project)/ Proj. No.

PROJECT DESCRIPTION:
(Briefly describe project, purpose, location, limits, right-of-way requirements, and activities involved.)

Enter project description in this box. Use Continuation Sheet, if necessary

CEQA COMPLIANCE *(for State Projects only)*

Based on an examination of this proposal, supporting information, and the following statements (See 14 CCR 15300 et seq.):

- If this project falls within exempt class 3, 4, 5, 6 or 11, it does not impact an environmental resource of hazardous or critical concern where designated, precisely mapped and officially adopted pursuant to law.
- There will not be a significant cumulative effect by this project and successive projects of the same type in the same place, over time.
- There is not a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances.
- This project does not damage a scenic resource within an officially designated state scenic highway.
- This project is not located on a site included on any list compiled pursuant to Govt. Code § 65962.5 ("Cortese List").
- This project does not cause a substantial adverse change in the significance of a historical resource.

CALTRANS CEQA DETERMINATION **(Check one)**

☐ **Exempt by Statute.** (PRC 21080[b]; 14 CCR 15260 et seq.)

Based on an examination of this proposal, supporting information, and the above statements, the project is:

☐ **Categorically Exempt. Class____.** (PRC 21084; 14 CCR 15300 et seq.)

☐ **Categorically Exempt. General Rule exemption.** [This project does not fall within an exempt class, but it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment (CCR 15061[b][3])

Print Name: Environmental Branch Chief		Print Name: Project Manager/DLA Engineer	
Signature	Date	Signature	Date

NEPA COMPLIANCE

In accordance with 23 CFR 771.117, and based on an examination of this proposal and supporting information, the State has determined that this project:

- does not individually or cumulatively have a significant impact on the environment as defined by NEPA and is excluded from the requirements to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS), and
- has considered unusual circumstances pursuant to 23 CFR 771.117(b) (http://www.fhwa.dot.gov/hep/23cfr771.htm - sec.771.117).

In non-attainment or maintenance areas for Federal air quality standards, the project is either exempt from all conformity requirements, or conformity analysis has been completed pursuant to 42 USC 7506(c) and 40 CFR 93.

CALTRANS NEPA DETERMINATION (Check one)

☐ **Section 6004:** The State has been assigned, and hereby certifies that it has carried out, the responsibility to make this determination pursuant to Chapter 3 of Title 23, United States Code, Section 326 and a Memorandum of Understanding (MOU) dated June 7, 2010, executed between the FHWA and the State. The State has determined that the project is a Categorical Exclusion under:

- ☐ **23 CFR 771.117(c): activity (c)(___)**
- ☐ **23 CFR 771.117(d): activity (d)(___)**
- ☐ **Activity ___ listed in the MOU between FHWA and the State**

☐ **Section 6005:** Based on an examination of this proposal and supporting information, the State has determined that the project is a CE under Section 6005 of 23 U.S.C. 327.

Print Name: Environmental Branch Chief		Print Name: Project Manager/DLA Engineer	
Signature	Date	Signature	Date

Briefly list environmental commitments on continuation sheet. Reference additional information, as appropriate (e.g., air quality studies, documentation of conformity exemption, FHWA conformity determination if Section 6005 project; §106 commitments; §4(f); §7 results; Wetlands Finding; Floodplain Finding; additional studies; and design conditions). **Revised June 7, 2010**

Categorical Exclusion Checklist (Continued)

Dist.-Co.-Rte. (or Local Agency)	P.M/P.M.	E.A. (State project)	Federal-Aid Project No. (Local project)/ Proj. No.

Continued from page 1:

Categorical Exclusion Checklist (Continued)

Dist/Co/Rte/PM:	Fed. Aid No:	Project ID:

SECTION 1: TYPE OF CE: Use the information in this section to determine the applicable CE and corresponding activity for this project.

1. **Project is a CE under SAFETEA-LU Section 6004 (23 U.S.C. 326).** ☐ Yes ☐ No
If "yes", check applicable activity in one of the three tables below (activity must be listed in 23 CFR 771.117 (c) or (d) list or included in activities listed in Appendix A of the MOU to be eligible for Section 6004).

Activity Listed in 23 CFR 771.117(c)			
1 ☐	Activities which do not involve or lead directly to construction	12 ☐	Improvements to existing rest areas and truck weigh stations.
2 ☐	Utility installations along or across a transportation facility	13 ☐	Ridesharing activities
3 ☐	Bicycle and pedestrian lanes, paths, and facilities	14 ☐	Bus and rail car rehabilitation
4 ☐	Activities included in the State's *highway safety plan* under 23 U.S.C. 402	15 ☐	Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons
5 ☐	Transfer of Federal lands pursuant to 23 U.S.C. 107(d) and/or 23 U.S.C. 317 when the land transfer is in support of an action that is not otherwise subject to FHWA review under NEPA	16 ☐	Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand
6 ☐	Installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction	17 ☐	Purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are within a CE
7 ☐	Landscaping	18 ☐	Track and rail bed maintenance and improvements when carried out within the existing right-of-way
8 ☐	Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur	19 ☐	Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site
9 ☐	Emergency repairs under 23 U.S.C. 125	20 ☐	Promulgation of rules, regulations, and directives
10 ☐	Acquisition of scenic easements	21 ☐	Deployment of electronics, photonics, communications, or information processing used singly or in combination, or as components of a fully integrated system, to improve the efficiency or safety of a surface transportation system or to enhance security or passenger convenience. Examples include, but are not limited to, traffic control and detector devices, lane management systems, electronic payment equipment, automatic vehicle locaters, automated passenger counters, computer-aided dispatching systems, radio communications systems, dynamic message signs, and security equipment including surveillance and detection cameras on roadways and in transit facilities and on buses
11 ☐	Determination of payback under 23 CFR part 480 for property previously acquired with Federal-aid participation		

Categorical Exclusion Checklist (Continued)

Activity Listed in Examples in 23 CFR 771.117(d)			
1 ☐	Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g., parking, weaving, turning, climbing)	8 ☐	Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes, not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic
2 ☐	Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting	9 ☐	Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users
3 ☐	Bridge rehabilitation, reconstruction or replacement or the construction of grade separation to replace existing at-grade railroad crossings	10 ☐	Construction of bus transfer facilities when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic
4 ☐	Transportation corridor fringe parking facilities	11 ☐	Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and where there is no significant noise impact on the surrounding community
5 ☐	Construction of new truck weigh stations or rest areas	12 ☐	Acquisition of land for hardship or protective purposes. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify for a CE only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the NEPA process. No project development on such land may proceed until the NEPA process has been completed (i) Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate particular hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others (ii) Protective acquisition is done to prevent imminent development of a parcel which may be needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and that such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project
6 ☐	Approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant adverse impacts	13 ☐	Acquisition of pre-existing railroad right-of-way pursuant to 49 U.S.C. 5324(c). No project development on the acquired railroad right-of-way may proceed until the NEPA process for such project development, including the consideration of alternatives, has been completed
7 ☐	Approvals for changes in access control		

Activity Listed in Appendix A of the MOU for State Assumption of Responsibilities for Categorical Exclusions			
1 ☐	Construction, modification, or repair of storm water treatment devices, protection measures such as slope stabilization, and other erosion control measures	5 ☐	Routine seismic retrofit of facilities to meet current seismic standards and public health and safety standards without expansion of capacity
2 ☐	Replacement, modification, or repair of culverts or other drainage facilities	6 ☐	Air space leases that are subject to Subpart D, Part 710, Title 23, Code of Federal Regulations
3 ☐	Projects undertaken to assure the creation, maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife	7 ☐	Drilling of test bores/soil sampling to provide information for preliminary design and for environmental analyses and permitting purposes

4 ☐	Routine repair of facilities due to storm damage, including permanent repair to return the facility to operational condition that meets current standards of design and public health and safety without expanding capacity (e.g., slide repairs, construction or repair of retaining walls)		

2. **Project is a CE for a highway project under SAFETEA-LU Section 6005 (23 U.S.C. 327).** ☐ Yes ☐ No
   (Use only if project does not qualify under Section 6004 [activities not included in three previous lists above].)

3. Exceptions to Categorical Exclusions/Unusual Circumstances (23 CFR 771.117[b]).

FHWA regulation 23 CFR 771.117(b) provides that any action which normally would be classified as a CE but could involve *unusual circumstances* requires the Department to conduct appropriate environmental studies to determine if the CE classification is proper. Unusual circumstances include actions that involve:

- Significant environmental impacts;
- Substantial controversy on environmental grounds;
- Significant impact on properties protected by section 4(f) of the DOT Act or section 106 of the National Historic Preservation Act; or
- Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action

All of the above unusual circumstances have been considered in conjunction with this project.

☐ Checking this box certifies that **none of the above conditions apply** and that the Categorical Exclusion remains valid.

☐ Checking this box certifies that unusual circumstances **are involved**, however, the appropriate studies/analysis have been completed
and it has been determined that the CE classification is still appropriate.

SECTION 2: Compliance with FHWA NEPA policy to complete all other applicable environmental requirements[1] prior to making the NEPA determination:

1. During the environmental review process for which this CE was prepared, all applicable environmental requirements were evaluated. Outcomes for the following requirements are identified below and fully documented in the project file.

Air Quality

☐ AQ checklist has been completed and project meets all applicable AQ requirements.

Cultural Resources

☐ Section 106 compliance is complete
Finding: ☐ Screened Undertaking ☐ No Effect ☐ No Adverse Effect ☐ Adverse Effect/MOA

Noise

23 CFR 772
☐ Check box if project is a Type 1 project; if not, skip this section.
☐ Future noise levels with project either approach or exceed NAC or result in a substantial increase
If yes, ☐ Abatement is reasonable and feasible ☐ Abatement is not reasonable or feasible

Waters, Wetlands, Floodplains

- Water Quality; Section 404 of the Clean Water Act
  Impacts to Waters of the US: ☐ Yes ☐ No
  If yes, approval anticipated:
  ☐ Nationwide Permit ☐ Individual Permit ☐ Regional General Permit ☐ Letter of Permission
- Section 401 of the Clean Water Act

[1] Please consult the SER for a complete list of applicable laws, statutes, regulations, and executive orders that must be considered before completing the CE.

☐ Exemption ☐ Certification

- Wetland Protection (Executive Order #11990)
  ☐ No wetland impact ☐ Only Practicable Alternative Finding is included in the CE attachment
  ☐ Only Practicable Alternative Finding is included in a separate document in the project file
- Floodplains (Executive Order #11988)
  ☐ No Floodplain Encroachment ☐ No Significant Encroachment ☐ Significant Encroachment

Biology

- Section 7 (Federal Endangered Species Act) Consultation Findings (Effect determination)
  ☐ No Effect ☐ Not Likely to Adversely Affect ☐ Likely to Adversely Affect
- Essential Fish Habitat (Magnuson-Stevens Act) Findings (Effect determination):
  ☐ No Effect ☐ Adverse Effect ☐ No Adverse Effect

Section 4(f) Transportation Act (23 CFR 774)

- Section 4(f) regulation was considered as a part of the review for this project and a determination was made:
  ☐ Section 4(f) does not apply
  (Project file includes documentation that property is not a Section 4(f) property, that project does not use a Section 4(f) property, or that the project meets the criteria for temporary occupancy.)
  ☐ Section 4(f) applies
  ☐ De Minimis
  ☐ Programmatic: Type _____ (List one of the five appropriate categories as defined in 23 CFR 774.3)
  ☐ Individual: ☐ Legal Sufficiency Review complete ☐ HQ Coordinator Review Complete

Section 6(f)—Was the above property purchased with grant funds from the Land and Water Conservation Fund?

☐ No, Section 6(f) does not apply. No additional documentation required.
☐ Yes ☐ Documentation of approval from National Park Service Director (through California State Parks) has been received for the conversion/and replacement of 6(f) property.

Coastal Zone

Coastal Zone Management Act of 1972
☐ Not in Coastal Zone ☐ Qualifies for Exemptions ☐ Qualifies for Waiver ☐ Coastal Permit Required
☐ Consistent with Federal State and Local Coastal Plans ☐ Federal Consistency Determination

Relocation

☐ No Relocations
☐ Project involves ____ (#) relocations and will follow the provisions of the Uniform Relocation Act.

Hazardous Waste and Materials

☐ None
☐ Contamination is present. Nature and extent of contamination ☐ is fully known. ☐ is not fully known.
If not fully known, briefly discuss plan for securing information:

_____

SECTION 3: Certification

Based on the information obtained during environmental review process and included in this checklist, the project is determined to be a Categorical Exclusion pursuant to the National Environmental Policy Act and is in compliance with all other applicable environmental laws, regulations and Executive Orders.

Prepared by: _____

Title: _____

Signature: _____ Date: _____